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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,292	02/11/2004	Joseph R. Hedrick	0112300-1849	5291

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BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

EXAMINER

WILKENS, JANET MARIE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,292

Applicant(s)

HEDRICK ET AL.

Examiner

Janet M. Wilkens

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3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/11/04 & 6/7/04</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Objections

Claim 12 is objected to because of the following informalities: the claim does not end in a period. Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-51 of U.S. Patent No. 6,702,409. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the patent and instant application teach a gaming device comprising a cabinet, a door pivotally connected to the cabinet, and a moveably connected bolster located on the door. The bolster includes a biased locking mechanism with a graspable member/knob (located inside the door), pin and sockets/collar with spring to control the position of the bolster. Although the patent fails to specifically teach that a game at the

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cabinet is operable upon a wager by a player, since it is disclosed as a gaming device, this feature would be inherent and/or obvious to add as part of the device. Also, it would be inherent that the part of the rotating mechanism of the patent device would be located inside of the door, to provide secure end connection points. Even if not considered inherent, this type of pivot connection is well known and therefore would be obvious to incorporate with the mechanism for the advantage stated above. Next, the sockets of the patent are never stated as including spring loaded bearings therein, however, rotatable sockets with spring loaded bearings are well known, and therefore, would be obvious to incorporate into the sockets of the patent device to help in the positioning of the bolster in its different locations. Furthermore, even though the patent fails to disclose a method of making the device, since the patent and instant application claim the same features, the method steps would be inherently met.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-18, and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grande in view of Wells. Grande teaches a gaming device (Fig. 2) comprising: a cabinet (12) and a door (26) pivotally connected and

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releasable lockable via a locking mechanism (28) to the cabinet. The device also includes a game at the cabinet which is operable upon a wager by a player. For claims 1-5, 7-18, and 31-34, Grande fails to teach a moveably connected bolster on the door. Wells teaches a moveable connected bolster (18) on a gaming machine (12). The pivot of the arms/rotating mechanisms (24,26) of the bolster are stopped/"locked" via "locking" devices (25,27) and are inherently removable from the cabinet (via tools, force, etc). Furthermore, the pivoting members release the bolster, allowing it to move/slide/rotate from one position to another. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gaming device of Grande by adding a bolster, such as the bolster taught by Wells, onto the door thereof (the arms 24,26 attached to the sides/back of the door), to provide a wrist/arm rest adjacent the front surface of the gaming device/on the door for the comfort of the users sitting at the device. Furthermore, the rotating feature of the bolster of Grande in view of Wells would allow it to be moved accordingly if needed to clear an adjacent bolster located on an adjacent machine when its door is opened.

For claims 2 and 11, it would be inherent that the part of the rotating mechanism would be located inside of the door, to provide secure end connection points. However, even if not considered inherent, this type of pivot connection is well known and therefore would be obvious to incorporate with the mechanism for the advantage stated above.

For claim 7, Grande in view of Wells further teaches that the locking mechanism includes pins (25,26) protruding from the door. However, Grande in

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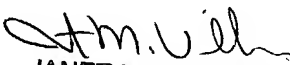
view of Wells fails to teach orifices on the bolster that engage the pins. The examiner takes Official notice that pin/orifice connections are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the arms of the bolster of Grande in view of Wells by forming orifices therein to mate with the pins, to provide a more secure attachment between the pins and bolster; one that would prevent unwanted sliding movement of the bolster when the bolster is in use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens
July 23, 2004


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637